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Letter dated 14 July 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Denmark submitted pursuant to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Note verbale dated 12 July 2006 from the Permanent Mission of Denmark to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of Denmark to the United Nations presents its compliments to the Chairman of the Committee and, pursuant to the provisions of resolution 1624 (2005) and in response to the Chairman's letter dated 15 May 2006, has the honour to transmit herewith the report on the Government of Denmark's implementation of those provisions (see enclosure).

Enclosure

IMPLEMENTATION OF UN SECURITY COUNCIL RESOLUTION 1624: DENMARK'S REPORT IN RESPONSE TO THE COUNTER-TERRORISM COMMITTEE'S QUESTIONS

1.1 What measures does Denmark have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

With the adoption by the Danish Parliament on 31 May 2002, of the Anti-Terrorism Act a new special section on terrorism was inserted in the Danish Criminal Code (straffeloven). The provision comprises very serious offences committed to disturb the established order and intimidate the population. The maximum penalty is fixed at life imprisonment.

Section 114 of the Criminal Code reads as follows:

"Section 114. Any person is liable to imprisonment for any term up to life imprisonment if he commits one or more of the following offences with the intent seriously to intimidate a population or unlawfully to compel Danish or foreign public authorities or an international organisation to do or to abstain from doing any act or to destabilise or destroy the fundamental political, constitutional, economic or social structures of a country or an international organisation, provided that the offence may inflict serious harm on a country or an international organisation by virtue of its nature or the context in which it is committed:

(i) Homicide under section 237.

(ii) Assault under section 245 or 246.

(iii) Deprivation of liberty under section 261.

(iv) Impairment of the safe operation of means of transport under section 184(1), unlawful disturbances in the operation of public means of communication, etc., under section 193(1) or very serious damage to property under section 291(2), where such offences are committed in a manner likely to endanger human lives or cause considerable economic loss.

(v) Unlawful seizure of public means of transport under section 183 a.

(vi) Serious violations of the arms legislation under section 192 a or under section 10(2) of the Act on Weapons and Explosives.

(vii) Arson under section 180, explosion, spreading of noxious gases, floods, shipwreck or any railway or other traffic accident under section 183(1) and (2), injurious pollution of the water supply under section 186(1), injurious poisoning or pollution of products intended for general use, etc., under section 187(1).
(viii) Possession or use, etc., of radioactive substances pursuant to section 192 b.

(2) The same penalty shall apply to any person who transports weapons or explosives with the intent as referred to in subsection (1) hereof.

(3) The same penalty shall also apply to any person who threatens to commit one of the offences listed in subsections (1) and (2) hereof with the intent as referred to in subsection (1) hereof."

The provision on terrorism is not limited to terrorist attacks against the Danish State and authorities. Attacks against foreign states, authorities and/or citizens as well as against international organisations are also criminalized.

The Anti-Terrorrism Act of 2002 included also the insertion of a special section (114a) on financing of terrorism, according to which it is an offence, to a wider extent than before, to provide or arrange for financial support to a terrorist or a terrorist organisation or otherwise to contribute to the promotion of its criminal activities. The maximum penalty is fixed at 10 years imprisonment.

On 2 June 2006, the Parliament adopted a new Anti-Terrorism Act. The act includes the legislative amendments required for Denmark's ratification and implementation of the Council of Europe Convention on the Prevention of Terrorism and the International Convention for the Suppression of Acts of Nuclear Terrorism.

The act includes the insertion of a new section 114a in the Criminal Code that comprises offences within the scope of and as defined in article 1 in the Council of Europe Convention on the Prevention of Terrorism that do not fall within the scope of section 114. The penalty may in these cases exceed the maximum penalty prescribed for the offence by up to 50 per cent.

The former section 114a on the financing of terrorism is re-enacted as section 114b so that the provision comprises the financing of terrorism and similar acts under both section 114 and the new section 114a.

The re-enacted section 114b reads as follows:

"Section 114b. A person is liable to imprisonment for any term not exceeding 10 years if he:
(i) directly or indirectly grants financial support to;
(ii) directly or indirectly provides or collects funds for; or
(iii) directly or indirectly makes money, other financial assets or financial or other similar services available to a person, a group of persons or an association that commits or intends to commit acts falling within the scope of section 114 or 114a."

The Act further includes insertion of two new sections (114c and 114d) on the recruitment and training for terrorism. The field of criminal responsibility is extended to include any person who allows himself to be recruited or trained for terrorism.

These sections read as follows:

"Section 114c. (1) A person is liable to imprisonment for up to 10 years if he recruits a person to commit or further acts falling within the scope of section 114 or 114a or to join a group or an association for the purpose of furthering the commission of acts of such nature by the group or association. In particularly aggravating circumstances, the penalty may be increased to imprisonment for up to 16 years. Particularly aggravating circumstances typically include cases of systematic or organised violations.
(2) A person is liable to imprisonment for up to six years if he recruits a person to commit or further acts falling within the scope of section 114b or to join a group or an association for the purpose of furthering the commission of acts of such nature by the group or association.
(3) A person is liable to imprisonment for up to six years if he accepts being recruited to commit acts falling within the scope of section 114 or 114a.

Section 114d. (1) A person is liable to imprisonment for up to 10 years if he trains, instructs or otherwise teaches a person to commit or further acts falling within the scope of section 114 or 114a, knowing that the person intends to use the skills for that purpose. In particularly aggravating circumstances, the penalty may be increased to imprisonment for up to 16 years. Particularly aggravating circumstances typically include cases of systematic or organised violations.
(2) A person is liable to imprisonment for up to six years if he trains, instructs or otherwise teaches a person to commit or further acts falling within the scope of section 114b, knowing that the person intends to use the skills acquired for that purpose.

(3) A person is liable to imprisonment for up to six years if he accepts being trained, instructed or otherwise taught to commit acts falling within the scope of section 114 or 114a."

The Danish Criminal Code contains very wide-ranging provisions on complicity.

According to section 23 the penalty in respect of an offence shall apply to any person who has contributed to the execution of the wrongful act by instigation, advice or action. Instigation is for example when someone in word or in deed encourages, incites or tempts another person to commit a criminal offence.

A person will be liable to punishment for participation pursuant to section 23 of the Criminal Code if he had the intention (mens rea) to procure an offence. The participation must be aimed at a specific offence in order to be punishable as section 23 of the Danish Criminal Code does not in itself confer penal authority, but merely expands the actus reus of the individual penal provisions.

Further according to section 114e a person is liable to imprisonment for up to six years if he otherwise furthers the activity of a person, a group or an association that commits or intends to commit acts falling within the scope of section 114, 114a, 114b, 114c or 114d.

Public incitement to commit an offence, including terrorist acts, is criminalized in section 136 of the Criminal Code.

According to section 136 any person who, without thereby having incurred a higher penalty, publicly incites others to an offence shall be liable to a fine or to imprisonment for any term not exceeding four years.

The provision is particularly directed at cases in which the conditions for imposing liability for participation in an offence are not satisfied, especially because the person inciting to the offence has not specified it to such an extent as to warrant the imposition of criminal liability for participation.

1.2 What measures does Denmark take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

As part of the response to the terrorist attacks in the United States on 11 September 2001, the Danish Government proposed an Act amending the Danish Aliens Act. The Act was adopted by Parliament in June 2002 (Act No. 362 of 6 June 2002). An important purpose of the Act was to secure the implementation of U.N. Security Council Resolution 1373 (2001).

According to operative paragraph 2 (c) of Resolution 1373 all states shall *deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens.* Article 2 (c) of Resolution 1373 is thus similar to article 1 (c) of Resolution 1624.

In order to implement Resolution 1373 – including article 2 (c), Act No. 362 of 6 June 2002 tightened the provisions in the Aliens Act regarding denial and revocation of residence permit because of offences committed outside of or in Denmark:

It is under no circumstances possible to obtain residence permit – as a refugee or on other grounds – if the exclusion clauses in the Refugee Convention apply (crime against peace, a war crime, a crime against humanity, a serious non-political crime outside the country of refuge prior to admission to that country as a refugee or an act contrary to the purposes and principles of the United Nations).

It is also not possible under the Aliens Act to obtain residence permit if the alien in question is considered to be a danger to the state or a serious threat against the public order, security or health.

The provisions regarding expulsion were changed by the Act in order to – regardless of the length of the stay in Denmark – expel aliens who must be deemed a danger to national security, or a serious threat to the public order, safety or health. This also applies to an alien who first and foremost poses a threat to another country's public order, safety or health, if the threat indirectly entails a threat to the Danish public order, safety or health. Moreover the provisions regarding expulsion were changed in order to expel aliens who commit offences with a view to overthrow or subvert Danish society or democracy.

The issue concerning asylum seekers or other aliens, who – because of his or her perpetration of serious crimes – have been denied a residence permit in Denmark, but at

the same time cannot be returned to his or her country of origin because of the prohibitio of refoulement, was also addressed in the Act. The Act introduced a system according to which the Danish Immigration Service every six months, or when the occasion otherwise arises, must check whether aliens excluded from being issued with residence permits in Denmark can be returned without risking persecution in their countries of origin.

The Act also introduced a provision under which the police may decide that an alien staying in Denmark on sufferance has to report to the police regularly – as a main rule every one or two weeks. Aliens who do not observe their duty to report can be detained, necessary, to determine whether it has become possible to return them.

In continuation of these initiatives, a provision in the Aliens Act was introduced accordin to which the Immigration Service – unless particular reasons make it inappropriate – can decide that an alien who has been refused asylum, but who cannot be returned because he or she risks persecution thereby, must take up residence at a particular accommodation centre. The intention of this provision is that as a main rule such aliens must be ordered t take up residence at a special centre, which is fenced and has access control and police officers present. This ensures that the authorities are aware of such aliens' place of residence. If an alien refuses to comply with an order to take up residence at the centre, th alien can be punished with a fine or with imprisonment for up to four months.

By Act No. 362 of 6 June 2002 the scope of the provision concerning non-refoulement in the Aliens Act was tightened and thus brought into compliance with Denmark's international obligations. The non-refoulement provision in the Aliens Act must be applie in compliance with Denmark's international obligations, including the absolute prohibition on return to a country where the alien will be at risk of torture or inhuman o degrading treatment or punishment, cf. article 3 of the European Convention on Human Rights and article 3 of the Convention against Torture.

A number of new provisions were furthermore added to the Aliens Act in order to facilitate information exchange between the immigration authorities, the intelligence services and the prosecution authority. The exchange of information has been found cruci in order to ensure that aliens posing a security risk for Denmark or countries with close ties to Denmark are identified in order to take appropriate precautions.

Finally it was also a part of Act No. 262 to improve the possibilities for the police to compare fingerprints taken in the context of an investigation of an offence or internationa

searches with fingerprints taken from asylum seekers and to pass on fingerprints from asylum seekers to police authorities abroad.

It is the opinion of the Danish State that the above mentioned changes to the Aliens Act made in 2002 in order to implement inter alia article 2 (c) of Resolution 1373 meet the requirements of article 1 (c) of Resolution 1624.

1.3 How does Denmark cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

The framework for the global efforts against terrorism regarding the above mentioned questions is mainly decided in the United Nations and the European Union.

As a member of the European Union Denmark participates in a number of activities to strengthen the security of its international borders and thus preventing those guilty of incitement to commit a terrorist act or acts from entering the European Union.

In this regard FRONTEX, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, can be mentioned.

FRONTEX is responsible for coordinating the activities of the national border guards in ensuring the security of the EU's borders with non-member states. FRONTEX's mission is to assist EU Member States implement EU rules on external border controls and to coordinate operational cooperation between Member States in the field of external border management. The main tasks of FRONTEX include coordination of operational cooperation between Member States in the field of management of external borders, assistance to Member States in the training of national border guards, carrying out risk analyses, following up the development of research relevant for the control and surveillance of external borders, assistance to Member States in circumstances requiring increased technical and operational assistance at external borders and providing Member States with the necessary support in organising joint return operations.

Furthermore the EU has developed databases with a view to prevent unwanted persons to enter the Member states.

One of these is the Schengen Information System (SIS). Criminal aliens – including aliens having committed terrorist acts – will be reported to the SIS as unwanted persons. The reporting to the SIS improves the possibilities for other members of the Schengen co-operation to identify such aliens, including when they wish to travel to a Schengen Member State.

Another important EU database is FADO. FADO is a European image archiving system set up for the purpose of exchanging, by computerised means and within a very short timeframe, information concerning genuine and false documents. The database contains, among other things images of false and forged documents, images of genuine documents, summary information on forgery techniques and summary information on security techniques.

Presently a proposal from the Commission regarding the establishment of the Visa Information System (VIS) is being negotiated within the EU. It is expected that VIS will enter into force on 1 January 2007. VIS will contain information on all persons applying for visa to the Schengen area. The database will contain information regarding visa applicants including fingerprints and photo. It is expected that the database will improve the general knowledge of persons applying for visas to the Schengen countries. The database will also be an important tool to prevent the use of fraudulent visas. Especially th mandatory registration of biometrics of visa applicants is expected to ensure that the perso granted the visa is the actual person using it and therefore to prevent the misuse of visas.

Finally it can be mentioned that Denmark participates in a various number of internation forums where security issues are discussed and experiences exchanged.

1.4 What international efforts is Denmark participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

Dialogue and Cooperation

At the multilateral level Denmark primarily participates in the ongoing work within the EU in order to enhance dialogue and broaden understanding among civilizations in an

effort to prevent the indiscriminate targeting of different religions and cultures. Reference is made to the EU Strategy and Action Plan for combating radicalisation and recruitment to terrorism adopted by the Council in December 2005. The detailed Action Plan includes almost 70 different actions both at Member State and EU level. The Action Plan also includes measures both within and outside the EU to combat and prevent radicalisation and recruitment to terrorism.

Denmark actively supports the implementation of the EU Council conclusions of 27 February 2006 on reactions in the Muslim world to publications in European media, and encourages EU efforts to strengthen dialogue with the OIC within the UN including on OIC initiatives concerning religious intolerance and defamation of religions. Denmark also supports the strengthening of dialogue activities within the Euro-Med Partnership and the Anna Lindh Foundation. Denmark supports the UN's Alliance of Civilizations Trust Fund through a contribution of 200.000 USD. Furthermore, an international expert conference was held in Copenhagen on May 16-18 2006 on stereotypes in the Muslim and Western world. The results of this conference have been given as an input to the Alliance of Civilizations High Level Group. Likewise an ambitious conference is scheduled to take place in Copenhagen in early 2007 to provide tangible inputs to the UNESCO's Dialogue between Cultures and Civilizations.

At the bilateral level the Danish government in late spring 2006 re-launched it's Arab-Danish Partnership Programme with a series of new dialogue and cooperation pr jects. The programme aims to promote freedom rights and good governance, knowledge societies and education as well as gender equality and women's participation in the Middle East and North Africa. The programme is implemented through equal partnerships between Danish and Middle Eastern organizations, and has among its objectives to foster increased understanding as well as positively affect the formation of attitudes towards other political, cultural and religious spheres. Simultaneously, various religious dialogue activities are taking place in Denmark and the Middle East, including Danish delegation visits to the Arab World and visits of influential Islamic scholars and institutions to Copenhagen.

Through the financial support of the Danish Ministry of Foreign Affairs, a series of conferences, seminars and larger arrangements have been held and are scheduled to take place at NGO-level in the course of 2006/2007. The more prominent of these were the March 2006 youth conference on cultural and religious dialogue with participation by significant European and Middle Eastern based Islamic scholars hosted by The Danish Institute for International Studies and the three-day exhibition "Islam Expo" focused on the different cultural and religious aspects of Islam. The upcoming "Images of the Middle East"

festival has its primary focus on contemporary Middle Eastern culture and the current changes taking place in the region and will have participation by different Middle Eastern scholars and artists.

Migration and Integration

Denmark is working with EU Member States and other European and international counterparts to exchange experiences and identify best practices for dialogue and inclusion. This cooperation also includes how to enhance understanding of how common core democratic values can be implemented in a framework that creates room for diversity in a coherent society. One aspect is the empowerment of moderate voices and the prevention of radicalisation.

Denmark actively participates in the EU network of integration experts and engages in a number of bilateral contacts in order to exchange experiences, strengthen dialogue and ensure awareness of current challenges and possible solutions. Efforts include bilateral visits to other EU Member States and a planned visit to the US as well as contacts to Danish and American ethnic or religious organisations.

Furthermore, Denmark is planning an international conference together with the Netherlands in September 2006 which will focus on the need for implementing adequate integration and anti-discrimination policies, and how to ensure education and work opportunities in order to ensure active participation in society and prevent radicalisation.

Denmark also works to include aspects of dialogue and coexistence horizontally and views the UN High Dialogue on Migration as an opportunity to implement this approach.

1.5 What steps is Denmark taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

Dialogue with imams and ethnic communities

Since 2003 the Danish Security Intelligence Service (PET) has had a dialogue forum with representatives of the various ethnic minorities in Denmark, and in the spring of 2004 the Service established a similar forum with a number of imams and representatives of the Muslim communities in Denmark.

The two fora differ from each other, but it is a common feature that viewpoints are exchanged concerning matters of mutual interest and projects of various types are initiated. Thus, a brochure has been prepared on the subject of financing of terrorism. This brochure is currently under revision.. Moreover PET plans to initiate cooperation between the two fora on a project focusing on radicalisation among young people with ethnic backgrounds other than Danish.

PET will make an effort to maintain and expand both of these fora, because the initiatives are a natural extension of the Service's wish to be closely in touch - as far as it is possible - with the surrounding community and to receive an input which is as multifaceted and balanced as possible for the purpose of the ongoing assessment of the security situation in Denmark.

Police Against Terrorism

PET has taken steps to further involve all police districts in targeted precautions against terrorist strikes in Denmark, within the framework of the "Police Against Terrorism" project developed by the Service after last summer's terrorist attacks in London.

The project includes indicators of signs to be aware of and a more general message to police officers across Denmark – including community police officers in areas with an increased potential for recruitment to radical courses – to pick up on typically younger persons entering the pathway to more radical and extreme behaviour.

Greater openness

Through greater openness about the objectives of PET it is the aim to secure the highest possible degree of cooperativeness in society in general. Consistent focus on openness about the tasks and methods of PET will help secure the necessary confidence, also in the general population, which may be able to provide relevant information to the Service and thus assist in creating a more robust society.

To spread this message even further the PET is presently preparing an Arabic version of parts of the services' homepage to supplement the English version already there.

Furthermore it is planned to prepare spots for broadcasting on Muslim radio and TV-stations.

The general preventive efforts

PET has for some time carried out a number of information meetings at universities and institutions of higher education discussing issues like abuse of knowledge and research related to the manufacturing of weapons of mass destruction as well as radicalisation in student circles.

1.6 What is Denmark doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?

The Ministry of Justice has issued a guide regarding the elaboration of legislation. In the guide it is mentioned that attention must be given to Denmark's obligations under international law in the elaboration of legislation, such as treaties and conventions that Denmark has acceded to.

Furthermore, all draft legislation is being examined by the Ministry of Justice before a bill is being introduced before Parliament. The examination by the Ministry of Justice aims at two things:

Firstly, it is being examined whether the draft legislation is in accordance with formal requirements. For example it is examined whether the draft legislation linguistically is in accordance with the general lines, whether the division in paragraphs and chapters is appropriate and whether the explanatory text is sufficient.

Secondly, the draft legislation is being examined in substance. It is examined whether the draft legislation corresponds to the Danish Constitution, EC-law and other general rules and principles. Furthermore, the relationship to general international conventions on human rights is being examined to such an extent as circumstances may require. The Ministry who is drafting the legislation is responsible for ensuring compliance with specific international conventions.